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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,685	10/26/2000	Stijn Van Even	06698-081001	4576

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FISH & RICHARDSON PC
1425 K ST STREET NW
WASHINGTON, DC 20005-3500

EXAMINER

STORM, DONALD L

ART UNIT PAPER NUMBER

2654

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/696,685

Applicant(s)

EVEN ET AL.

Examiner

Donald L. Storm

Art Unit

2654

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: 3, 5-8, 15 and 17-20.
Claim(s) rejected: 1, 2, 4, 9-14, 16 and 21-36.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.


RICHMOND DORVIL
SUPERVISORY PATENT EXAMINER

 7/19/05

Continuation of 3. NOTE:

The proposed amendment will not be entered because it does not place the application in condition for allowance. The subject matter of the proposed claims does not prima facie avoid the art rejections set forth in the previous Office action. The amendment does not place the application in better form for appeal because the proposed amendment presents new issues not previously addressed. The proposed amendment will not be entered because it is not deemed to materially reduce or simplify the issues for appeal.

Additional search would be required because the new claim limitations and new combinations of claim limitations requiring at least (1) similarity between a word and a phrase of a speech recognition result and (2) if the word is not similar presents new issues. Reconsideration is required of whether similarity establishes a limitation that was not previously examined in its proposed context. For example the condition of being similar to a portion of the phrase, at first glance appears to encompass broader subject matter than the matching a substring of claim 5 or the sound similarity of claim 7.

Whether all dependent claims now distinctly claim the invention in light of the new claim limitation and patentability in view of combinations of references already of record must also be reconsidered. Sufficiency of disclosure as originally filed would require reconsideration.

Continuation of 11. does NOT place the application in condition for allowance because:

The Applicant contends that Wright does not describe every aspect of the independent claims because:

- a. Wright does not determine if the word in the recognition result is similar to a portion of the phrase. This argument is not persuasive because it is directed to subject matter that has not been entered
- b. Support for amendment to the claims may be found in the application. This argument is not persuasive because it is directed to subject matter that has not been entered.
- c. Subject matter of the proposed amendments to the claims would not require comparison with the prior art or further review beyond a cursory review. This argument is not persuasive because the subject matter of the proposed amendments to the claims would introduce combinations of claim elements that prior Office actions did not address.

Continuation of 13. Other:

The portions of the amendment directed to the drawings, to rejections under 35 USC 112, second paragraph, and to rejections under 35 USC 101 would be acceptable as placing some of the claims in better form for appeal or removing issues for appeal if a separate paper were filed containing only acceptable amendments.

The remarks recording the substance of the interview has been reviewed. The Examiner's record of the discussion differs only in the conclusions about what would be have to be done to fully evaluate patentability of amended claims. The Examiner pointed out that adding limitations to the claims would require reconsideration of Wright and other references, and will require further search before the patentability of the invention defined in the amended claims could be fully evaluated.